

Please docket



Office of the  
Commissioner /Insurance

June 6, 2011

REPUBLIC OF LIBERIA  
**MINISTRY OF TRANSPORT**  
BROAD STREET  
MONROVIA, LIBERIA



United States District Court  
Eastern District of Pennsylvania  
6615 U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106-1797

**FILED**  
JUN - 9 2011  
MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

Attn: The Honorable District Judge Paul S. Diamond

Re: The Abi Jaoudi and Azar Trading Corp v. CIGNA Worldwide Insurance Co (Civil  
Action No. 91-6785) – Ancillary Aiding and Abetting of Civil Contempt Proceedings

Your Honor,

I am the acting Commissioner of Insurance of the Republic of Liberia. I am also the Court-appointed (successor) Receiver over the assets and affairs of the locally licensed branch and operation of CIGNA Worldwide Insurance Co ("CWW"), here in Liberia.

I attach to this letter as Appendix "A" a copy of a Diplomatic Note from the Republic of Liberia to the United States Department of State of March 2011. (This document was previously filed in this case under Document No. 233-1 on 4 March 2011.) This Note sets out the position of the Republic of Liberia regarding its objections to this Honorable Court taking jurisdiction over me as a Commissioner of Insurance of Liberia and Court-appointed Receiver. In the attached Diplomatic Note:

*"The Republic [of Liberia] respectfully reiterates its request of August 17, 2010 to the U.S. Department of State for the issuance of a Suggestion of Immunity in favour of Mr. Senesie, Mr. Sesay and their agents. The Republic does so pursuant to the Common Law doctrine of Sovereign Immunity."*

I attach to this letter as Appendix "B" a copy of the August 17, 2010 Diplomatic Note from Liberia to the United States.

I understand from my legal counsel in Philadelphia, the firm of Reed Smith, that on May 31, 2011, this Honorable Court granted an Order requiring me to comply with certain discovery requests issued by CWW, in furtherance of their attempts to have this Court determine that my actions in connection with the fulfillment of my responsibilities under Liberian law, and the Liberian Court Order appointing me to office as Receiver, are incompatible with a 2001 anti-enforcement of Liberian judgment injunction of this Honorable Court.


I have been directed by the Republic of Liberia not to attorn to the jurisdiction of this Honorable Court – including attorning to any order of discovery of the kind referred to above. This is evidenced in part by the Diplomatic Note from Liberia of March 2011 (Appendix "A"), which provides that:

*"The Republic will instruct its representatives to resist any attempt on the part of the District Court to exercise sovereignty over the Respondents until a final determination regarding sovereign immunity has been made."*

My predecessor in office, Mr. Josie Senesie, and I have each sought to respect this Court, the U.S. Court of Appeals for the 3<sup>rd</sup> Circuit, and the U.S. civil justice system throughout these proceedings (which commenced in late November 2008). Early on in these proceedings, or in January 2009, Mr. Senesie instructed counsel to seek a consensual stay over the further conduct of the indemnity enforcement action instituted before the Grand Court of the Cayman Islands against ACE Limited and by the Receivership Estate of CWW's Liberian branch, in July 2008. I have recently instructed my Cayman counsel to amend the Receivership Estate's Statement of Claim in the Cayman Islands case to remove any reference to the underlying Abi Jaoudi and Azar Trading Corporation ("AJA") judgment – that forms the subject of this Court's 2001 injunction. I have further instructed Cayman counsel to ensure that such amendment to the pleading is permanent – or with prejudice to the Estate that I administer.

Yours sincerely,

COMMISSIONER OF INSURANCE OF  
THE REPUBLIC OF LIBERIA and  
COURT-APPOINTED RECEIVER OVER  
THE ASSETS AND AFFAIRS OF CWW'S  
BRANCH

  
By Mr. Foday Sesay  
+2316 - 538-947



APPENDIX "A"

COPY OF DIPLOMATIC NOTE  
FROM LIBERIA TO UNITED STATES DATED MARCH 2011



EMBASSY OF THE REPUBLIC OF LIBERIA

5201 16th Street, N.W.  
Washington, DC 20011  
Tel: 202-723-0437  
Fax: 202-723-0436

LEW-1/3C/122/03-11

Note Verbale

The Embassy of the Republic of Liberia to the United States presents its compliments to the U.S. Department of State, and has the honor to bring to the latter's attention the outstanding request from the Ministry of Foreign Affairs of the Republic of Liberia of August 17, 2010 for the issuance of a Suggestion of Immunity by the U.S. Department of State in favour of the Respondents before the U.S. District Court (EDPA) (the "District Court")<sup>1</sup>, and a related proceeding in the Chancery Court of the State of Delaware<sup>2</sup> (collectively, the "Proceedings").

The Republic of Liberia confirms that on January 21, 2011, the United States filed a Notice in the District Court expressing that "...threshold determinations must be made as to the capacity in which the Respondents are being sued and, in particular, whether the Republic of Liberia is the real party in interest." The Notice concluded by stating that, once the "...Court has made a determination as to the real party in interest, the United States will then be in a position to determine whether, pursuant to 28 USC §517, to submit a statement of interest or, if appropriate, a suggestion of immunity."

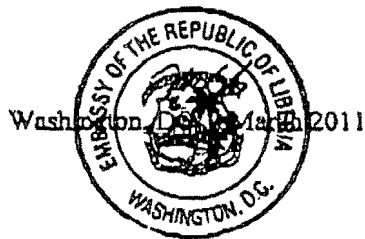
On February 16, 2011, a Motion to Compel was filed in the District Court, whereby CIGNA Worldwide Insurance Company ("CWW") confirmed that it has sued the Respondents in this matter in their respective personal capacities, as well as in their "representative" capacities as Receiver, but not in their official capacities as Commissioners of Insurance. CWW has also stated its position that the Republic of Liberia is not the "real party in interest" in the Proceedings. The Republic's position is that Mr. Senesie and Mr. Sesay are the parties who were sued in the District Court action (together with one of their attorneys). On the facts of this case, the Republic of Liberia confirms that it is not the real party in interest in the Proceedings. Rather, one of its former State officials and his current successor in that office (and one of their agents) have been sued personally and in respect of activities undertaken by them in furtherance of their Liberian statutory and Court-mandated duties.

The Republic believes that the threshold issues raised by the United States in its January 21, 2011 Notice have now been resolved on the basis of the parties' positions. The Republic respectfully reiterates its request of August 17, 2010 to the U.S. Department of State for the issuance of a Suggestion of Immunity in favour of Mr. Senesie, Mr. Sesay and their agents. The

U. S. Department of State  
Washington, DC 20520

Republic does so pursuant to the Common Law doctrine of Sovereign Immunity. The Republic will instruct its representatives to resist any attempt on the part of the District Court to exercise sovereignty over the Respondents until a final determination regarding sovereign immunity has been made.

The Embassy of the Republic of Liberia to the United States avails itself of this opportunity to renew to the U.S. Department of State the assurances of its highest consideration.



APPENDIX "B"

COPY OF DIPLOMATIC NOTE  
FROM LIBERIA TO UNITED STATES DATED AUGUST 17, 2010



REPUBLIC OF LIBERIA  
MINISTRY OF FOREIGN AFFAIRS  
MONROVIA, LIBERIA

RL/MFA/1269/2-3/10

The Ministry of Foreign Affairs of the Republic of Liberia presents its compliments to the Embassy of the United States of America and has the honor to request the latter to bring to the attention of the United States Secretary of State a matter involving the Government of Liberia and the Liberian branch of CIGNA Worldwide Insurance Company ("CIGNA")

The Ministry of Foreign Affairs further requests that the Department of State file a Statement of Interest in the outstanding civil actions and appeals noted below. The Ministry also requests that the Statement of Interest express the view that the Government of Liberia's Commissioner of Insurance, while acting as a Liberian Court-appointed Receiver over the assets and affairs of the Liberian branch of CIGNA, and his agents, are immune from suit in US Courts under the doctrine of sovereign immunity. The Commissioner of Insurance was, at all times relevant to the matter described below, acting in his official capacity and fulfilling his official duties as an Officer of the Government of Liberia.

The Ministry has the honor to refer the Department of State to the pending civil actions and appeals before:

(a) the United States Court of Appeals for the Third Circuit in *Abi Jaoudi and Azar Trading Corporation v. CIGNA Worldwide Insurance Company ("CIGNA"), et al*<sup>1</sup> and the US District Court (Eastern District of Pennsylvania) in Philadelphia, Pennsylvania<sup>2</sup>, and

(b) a related matter styled as *CIGNA et al v Jesse Scheshe, Commissioner of Insurance of Liberia*, before the Court of Chancery of the State of Delaware.<sup>3</sup>

The Ministry would like to express its grave concern regarding the adverse effect these proceedings could have on Liberia's continued development as a stable and autonomous democracy in the African region.

The Ministry of Foreign Affairs further requests that the Department of State inform (a) the United States Court of Appeals for the Third Circuit, (b) the US District Court in Philadelphia

Case Nos. 09-1297 and 09-1298

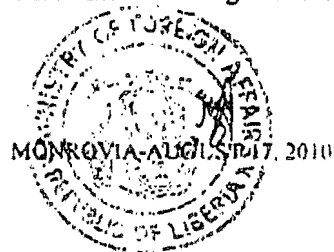
<sup>1</sup> Civil Action No. 01-6785

<sup>2</sup> Civil Action No. 01-71-VCL



and (c) the Court of Chancery of the State of Delaware, with the utmost urgency, of my Government's grave concerns regarding this matter.

The Ministry of Foreign Affairs of the Republic of Liberia avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration and esteem



Embassy of the United States of America  
Mamba Point  
Monrovia, LIBERIA

cc Ambassador William Burns, Undersecretary of State for Political Affairs  
Ambassador Johnnie Carson, Assistant Secretary of State for African Affairs  
The Honorable Mr. Harold Koh, Legal Adviser  
The Honorable Ms. Michelle Gavin, Senior Director for African Affairs,  
National Security Council Staff, the White House  
Ambassador Linda Thomas-Greenfield, Ambassador of the United States of  
America to Liberia  
Ambassador of Liberia to the United States of America

Attachments:



Office of the  
Commissioner /Insurance

REPUBLIC OF LIBERIA  
**MINISTRY OF TRANSPORT**  
BRDAD STREET  
MONROVIA, LIBERIA



**FAX TRANSMITTAL**

**DATE:** June 8, 2011

**TO:** Chambers of The Honorable Judge Paul S. Diamond  
United States District Court  
Eastern District of Pennsylvania  
6613 U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106-1797

**FROM:** The Honorable Foday Sesay,  
Commissioner of Insurance of Liberia and  
Court-Appointed Receiver over the Assets and Affairs of  
CIGNA Worldwide Insurance Co.'s Liberian Branch

**FAX:** +1 (267) 299-5069

**RE:** The Abi Jaoudi and Azar Trading Corp. v. CIGNA  
Worldwide Insurance Co. ("CWW") (Civil Action No.  
91-6785 – Ancillary Aiding and Abetting of Civil  
Contempt Proceedings

**PAGE NO:** 1 of 10